

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6334 of 1997

with

SPECIAL CIVIL APPLICATION NO. 6335 & 6336 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RR GOSAI

Versus

DIST SUPDT OF POLICE

Appearance:

MR MUKESH R SHAH for Petitioner
MR DA BAMBHANIA for Respondent No. 1
SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 13/02/98

ORAL JUDGEMENT

The petitioners who were suspended in the year 1984 in pursuance to a criminal case registered against them for the offence punishable under sec. 161, 165(9), 114 and 201 of IPC and sec. 5(2) of the Prevention of Corruption Act with effect from 6.12.1984, have filed these petitions for appropriate writ, order or direction directing the respondents to pass an order of

regularisation of service of the petitioners for the period under which the petitioners were under suspension and pay fixation of the petitioners accordingly inclusive of increments, selection grade with all consequential benefits available to them and to fix provisional pension. It may be stated that even though the order of suspension pending criminal case was passed against each of the petitioner they have been reinstated with effect from 9.1.1990 subject to the decision of the criminal appeal. It is also not in dispute that all the petitioners have been acquitted by the learned Special Judge, Kutch at Bhuj. However, this Court has admitted the appeal against their acquittal. It may further be stated that one of the petitioner Mr RR Gosai of SCA 6334/97 has retired from service with effect from 30.4.1997.

2. When these petitions came up for admission before this Hon'ble Court (Coram: N.N. Mathur, J.) on 25.9.1997, while issuing notice to the respondents, by way of interim order directed the respondents to decide the question of regularisation of service during the period of suspension and other ancilliary matter. Today, when these petitions called out for hearing, Mr. Bambhaniya learned AGP has produced a order dated 15.10.1997 passed by the District Police Superintendent, Kutch at Bhuj, wherein instead of complying with the directions of this Court has passed the order to the effect that their cases shall be considered after the decision of the appeal filed in this Court. When this court has given specific direction to decide the question of regularisation of service for the period of suspension and other ancilliary matters, the respondents are xpected to comply with the same and cannot and should not avoid the same for any reason. Bombay Civil Services Rules, 1959 clearly contemplates that the authority competent is required to pass a spesific order.-

- a) regarding the pay and allowances to be paid to the Government servant for the period of his absence on duty; and
- b) whether or not the said period shall be treated as period spent on duty;

In view of this, the concerned respondent is directed to take appropriate decision by deciding the question of regularisation of the service of each of the petitioner during the period of his suspension and other ancilliary matter within a 8 weeks from the date of the receipt of this order by a speaking order. Rule made

absolute in each of the petition with no order as to costs.
